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4 UNITED STATES DISTRICT COURT  
5 DISTRICT OF NEVADA

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7 DITECH FINANCIAL LLC,

8 Plaintiff(s),

9 v.

10 SATICOY BAY LLC SERIES 4683 CALIFA,

11 Defendant(s).

Case No. 2:17-CV-757 JCM (NJK)

ORDER

12  
13 Presently before the court is defendant Saticoy Bay LLC Series 4683 Califa.'s ("Saticoy")  
14 motion to dismiss. (ECF No. 11). Plaintiff Ditech Financial LLC ("Ditech") filed a response (ECF  
15 No. 15), to which Saticoy replied (ECF No. 16).

16 **I. Facts**

17 This case involves a dispute over real property located at 4683 Califa Drive, Las Vegas,  
18 Nevada 89122 (the "property"). On May 5, 2006, Jose M. and Nelsa Aguilar obtained a loan from  
19 Countrywide Home Loans, Inc. in the amount of \$153,500.00 to purchase the property, which was  
20 secured by a deed of trust recorded on May 26, 2006. (ECF No. 1).

21 The deed of trust was assigned to Bank of New York Mellon via an assignment of deed of  
22 trust recorded on July 6, 2011. (ECF No. 1 at 2–3).

23 On July 9, 2015, Saticoy purchased the property at a foreclosure sale for \$59,000.00. (ECF  
24 No. 1 at 4). A trustee's deed upon sale in Saticoy's favor was recorded on July 24, 2016. (ECF  
25 No. 1 at 40).

26 After the foreclosure sale extinguished the deed of trust, it was assigned to Ditech via an  
27 assignment of deed of trust recorded April 21, 2016. (ECF No. 1 at 3).

1 On March 15, 2017, Ditech filed the underlying complaint, alleging two causes of action:  
2 (1) quiet title; and (2) declaratory relief. (ECF No. 1).

3 In the instant motion, Saticoy moves to dismiss pursuant to Federal Rule of Civil Procedure  
4 12(b)(6). (ECF No. 11).

## 5 **II. Legal Standard**

6 A court may dismiss a complaint for “failure to state a claim upon which relief can be  
7 granted.” Fed. R. Civ. P. 12(b)(6). A properly pled complaint must provide “[a] short and plain  
8 statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2); *Bell*  
9 *Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007). While Rule 8 does not require detailed  
10 factual allegations, it demands “more than labels and conclusions” or a “formulaic recitation of the  
11 elements of a cause of action.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citation omitted).

12 “Factual allegations must be enough to rise above the speculative level.” *Twombly*, 550  
13 U.S. at 555. Thus, to survive a motion to dismiss, a complaint must contain sufficient factual  
14 matter to “state a claim to relief that is plausible on its face.” *Iqbal*, 556 U.S. at 678 (citation  
15 omitted).

16 In *Iqbal*, the Supreme Court clarified the two-step approach district courts are to apply  
17 when considering motions to dismiss. First, the court must accept as true all well-pled factual  
18 allegations in the complaint; however, legal conclusions are not entitled to the assumption of truth.  
19 *Id.* at 678–79. Mere recitals of the elements of a cause of action, supported only by conclusory  
20 statements, do not suffice. *Id.* at 678.

21 Second, the court must consider whether the factual allegations in the complaint allege a  
22 plausible claim for relief. *Id.* at 679. A claim is facially plausible when the plaintiff’s complaint  
23 alleges facts that allow the court to draw a reasonable inference that the defendant is liable for the  
24 alleged misconduct. *Id.* at 678.

25 Where the complaint does not permit the court to infer more than the mere possibility of  
26 misconduct, the complaint has “alleged—but not shown—that the pleader is entitled to relief.” *Id.*  
27 (internal quotation marks omitted). When the allegations in a complaint have not crossed the line  
28 from conceivable to plausible, plaintiff’s claim must be dismissed. *Twombly*, 550 U.S. at 570.

1           The Ninth Circuit addressed post-*Iqbal* pleading standards in *Starr v. Baca*, 652 F.3d 1202,  
2 1216 (9th Cir. 2011). The *Starr* court stated, in relevant part:

3           First, to be entitled to the presumption of truth, allegations in a complaint or  
4 counterclaim may not simply recite the elements of a cause of action, but must  
5 contain sufficient allegations of underlying facts to give fair notice and to enable  
6 the opposing party to defend itself effectively. Second, the factual allegations that  
are taken as true must plausibly suggest an entitlement to relief, such that it is not  
unfair to require the opposing party to be subjected to the expense of discovery and  
continued litigation.

7 *Id.*

### 8 **III. Discussion**

9           Under Nevada law, “[a]n action may be brought by any person against another who claims  
10 an estate or interest in real property, adverse to the person bringing the action for the purpose of  
11 determining such adverse claim.” Nev. Rev. Stat. § 40.010. “A plea to quiet title does not require  
12 any particular elements, but each party must plead and prove his or her own claim to the property  
13 in question and a plaintiff’s right to relief therefore depends on superiority of title.” *Chapman v.*  
14 *Deutsche Bank Nat’l Trust Co.*, 302 P.3d 1103, 1106 (Nev. 2013) (internal quotation marks and  
15 citations omitted). Therefore, for plaintiff to succeed on its quiet title action, it needs to show that  
16 its claim to the property is superior to all others. *See also Breliant v. Preferred Equities Corp.*,  
17 918 P.2d 314, 318 (Nev. 1996) (“In a quiet title action, the burden of proof rests with the plaintiff  
18 to prove good title in himself.”).

19           Ditech has failed to sufficiently state a quiet title claim against Saticoy. According to the  
20 complaint, Ditech did not own an interest in the property at the time of the foreclosure sale. In  
21 fact, the deed of trust was not assigned to Ditech until almost a year after the foreclosure sale—  
22 almost a year after the deed of trust had been extinguished by the foreclosure sale.

23           Accordingly, Ditech’s complaint has failed to state facts sufficient to support a reasonable  
24 inference that Ditech’s interest in the property is superior to that of Saticoy’s. Therefore, the court  
25 will grant Saticoy’s motion to dismiss without prejudice.

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1 **IV. Conclusion**

2 Accordingly,

3 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that Saticoy's motion to  
4 dismiss (ECF No. 11) be, and the same hereby is, GRANTED.

5 IT IS FURTHER ORDERED that Ditech's complaint (ECF No. 1) be, and the same hereby  
6 is, DISMISSED WITHOUT PREJUDICE.

7 DATED July 3, 2017.

8   
9 UNITED STATES DISTRICT JUDGE